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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11 STRIKE 3 HOLDINGS, LLC,

12 Plaintiff,

13 vs.

14 JOHN DOE subscriber assigned IP address
15 76.126.131.175,

16 Defendant.

Case Number: 3:17-cv-06058-JCS

**AMENDED ~~PROPOSED~~ ORDER ON
EX-PARTE MOTION FOR LEAVE TO
SERVE THIRD PARTY SUBPOENA
PRIOR TO A RULE 26(f) CONFERENCE**

Date: Friday, December 8, 2017

Time: 9:30 AM

Place: Courtroom G - 15th Floor

Honorable Joseph C. Spero

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18 **THIS CAUSE** came before the Court upon Plaintiff's *Ex-Parte* Motion for Leave to Serve
19 a Third Party Subpoena Prior to a Rule 26(f) Conference (the "Motion"), and the Court being
20 duly advised does hereby:

21 **FIND, ORDER AND ADJUDGE:**

22 1. Plaintiff has established that "good cause" exists for it to serve a third party
23 subpoena on Comcast Cable (hereinafter the "ISP"). *See UMG Recording, Inc. v. Doe*, 2008
24 WL 4104214, *4 (N.D. Cal. 2008); and *Arista Records LLC v. Does 1-19*, 551 F. Supp. 2d 1, 6-
25 7 (D.D.C. 2008);

26 2. Plaintiff may serve the ISP with a Rule 45 subpoena commanding the ISP to
27 provide Plaintiff with the true name and address of the Defendant to whom the ISP assigned an

1 IP address as set forth on Exhibit A to the Complaint. Plaintiff shall attach to any such
2 subpoena a copy of this Order;

3 3. Plaintiff may also serve a Rule 45 subpoena in the same manner as above on any
4 service provider that is identified in response to a subpoena as a provider of Internet services to
5 one of the Defendants (together with Comcast Cable, the “ISPs”);

6 4. **IT IS FURTHER ORDERED** that subpoenas authorized by this Order and
7 issued pursuant thereto shall be deemed appropriate court orders under 47 U.S.C. § 551. In
8 particular, 47 U.S.C. § 551(c)(2)(B) provides as follows:

9 (c) Disclosure of personally identifiable information

10 ***

11 “(2) A cable operator may disclose such information if the disclosure is –

12 ***

13 “(B) subject to subsection (h) [relating to disclosures to
14 governmental agencies] of this action, made pursuant to a court
15 order authorizing such disclosure, if the subscriber is notified of
16 such order by the person to whom the order is directed....”

15 This order is an order authorizing such disclosure:

16 5. **IT IS FURTHER ORDERED** that each ISP will have 30 days from the date of
17 service upon it to serve each of its subscriber(s) whose identity information is sought with a
18 copy of the subpoena and a copy of this Order. The ISPs may serve the subscribers using any
19 reasonable means, including written notice sent to the subscriber’s last known address,
20 transmitted either by first-class mail or via overnight service.

21 6. **IT IS FURTHER ORDERED** that each subscriber and each ISP shall have 30
22 days from the date of service upon him, her or it to file any motions in this court contesting the
23 subpoena (including a motion to quash or modify the subpoena). If the 30-day period lapses
24 without the subscriber contesting the subpoena, the ISP shall have 10 days to produce to
25 Plaintiff the information responsive to the subpoena with respect to that subscriber.

26 7. **IT IS FURTHER ORDERED** that an ISP that receives a subpoena shall
27 preserve all subpoenaed information pending the ISP’s delivering such information to Plaintiff

1 or the final resolution of a timely filed motion to quash the subpoena with respect to such
2 information.

3 8. **IT IS FURTHER ORDERED** that any information disclosed to Plaintiff in
4 response to a subpoena may be used by Plaintiff solely for the purpose of protecting its rights
5 under the Copyright Act, 17 U.S.C. § 101 et seq.

6 9. **IT IS FURTHER ORDERED** that any name or other personal identifying
7 information of any current or proposed defendant shall be filed UNDER SEAL in all filings.

8 **IT IS SO ORDERED.**

9
10 Dated: 11/8/17 _____

